App.F.IX-4]

Previous References.

1924-5
Geol

File No. 135-24

Serial Nos. 1-3

Later references.

GENERAL & REVENUE SECRETARIAT

Serial Nos. three

Part B for Dec 25

SUBJECT

Applicability of the Mysore Petroleum Regulation and rules thereunder to the oil installations erected in the premises of the Station belonging to M. S. M. Ry.

DC 3787.M 1.12.25
to
Director P and C

States that in respect of oil installations erected in Railway lands over which British Government have full jurisdiction the Mys. Rules will not apply and the companies need not be asked to take out licenses under our regulations & rules

Submitted

G. R. S. III—1] 1912

GENERAL AND REVENUE SECRETARIAT.

(Genl

NOTES.

File No. 135-2

FILE HEADING.

Applicability of the Indian Petroleum Regulations & Rules thereunder to the oil installations erected in the premises of Rly. Stations belonging to M & S.M. Rly. Co.

From

The Dir of Stats

No. G. 1002 Dated 25.6.25 Received 28.6.25

Diary No. 5-366	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

Grants instructions in the matter of licensing the Petroleum installations in the premises of Rly. Stations belonging to M. & S.M. Rly also (2) in the matter of transfer licenses in favour of the firms at Madras & Bombay as well as their agents in the Rly. State.

NOTES AND ORDERS.

1) Rules for orders with a copy of Petroleum Rules & Rules thereunder.

No 3074/25 - VS

CW Bm 7/5

2) There are two points on which the Dir seeks the orders of Govt

1) Whether the installations in the premises of Rly Stns as mentioned should not be required to

NOTES—First Sheet.

Secl File No. 135 of 19 26

Serial No

be licensed?

2) Whether in the case of a licence for the transport of petroleum the Sub Agents of the principal licensee, may not be req[d] to take out separate licences for transport

3) Regarding the first point it does not seem to be correct to apply our Regl[n] & Rules to the Areas included in the Ry St[n] premises as under the Indian Petroleum Act the Bombay Govt have jurisdiction over it.

4) Regarding the second point, re an issue separate transport licences in favour of Sub Agents otherwise transport by such Sub agents is illegal Please See linked file—

5) Perhaps, the Ch. Insp of Explosives (who was administering this Regl[n] till recently) may be consulted, re. the Dist prospects—

Resp Sir

1) Please see
note on margin—
As was spoken to
with Agra

Regds
WDP 30/6

WDP
28/5

Libd sends a copy of Indian Petroleum Act of 89, available in the G.R.S Libg as per orders of the Secy in para 6 of note in P.2

28/5/26

9) The Rly Bd's wish that this file may be sent to them for return

DO 30/6

From the Dep. of State
no. G. 10 dt 4.7.25

Requests early orders in the matter of applicability of the Burma Petroleum Regulations & Rules to the storage installations in the Premises of the Reg. Stations under the control of the Dir of S.M Rys. dt 21st Ult. No. 86-G

10) Libd

11) Clk Please compute

DO 16/7

1927
2427
2027
2927
3/8
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15
ans

Serial No

13) There are two points on which the Dirctr seeks instructions from Govt

1) Whether the oil installations erected in the premises of certain Ry Stns on the M & S. line in the State, should not also be licensed under the Mysore Petroleum Regl & Rules-?

2) Whether, in the case of Petroleum Companies which are now making consignments through their Sub agents at several places in the State under cover of a general license issued in in favour of the principals at Bombay or Madras, we should not insist that the Sub Agents should take out separate transport licenses or that the principals should take out licenses for the whole State?

14) The first is mainly a question of jurisdiction The possession and transport of petroleum the C & M Stations & the railway lands Mysore territory, over which jurisdiction has ceded to the British Govt, is regulated the Rules issued by the Residency in exercise of the powers conferred by Sec. 9. of the Indian Petroleum Act of 1899. on Local Govts. The full area the lands in mysore territory, in which full jurisdiction has been ceded to the B Govt, by H.H. the Maharaja of mysore:-

a) The Bangalore Branch of the Madras Railway

b) The Mysore Railway from & inclusive of the

Serial No

Harihar Rly Stn to & inclusive of the Bangalore Rly Stn.

15 2) from & inclusive of the Yeravanthapura Rly Stn to the frontier of the State on the Bangalore Hindupur Sec" of the Mysore Railway

3) The Kolar Gold fields Railway

Such lands include lands occupied as Stations outbuildings and for other railway purposes. (Please See Part III Ch III. Page 239 British Enactments in force in Native states - put up herewith) - Kind attention is also invited to Article 14 of the Mysore Treaty 1913. whereby this Govt is bound to grant lands reqd for constructg or working a Railway by the British Govt and to transfer Plenary jurisdiction within such land, to the Governor General (Viceroy) in Council -

16) In view of these facts, it does not seem correct to hold the view that the Oil installation erected in the Rly Stn premises licensed under the C & M. Stn Rules, should again be licensed under our Regln & Rules - It is very unlikely that the British Govt would accept such a position. (Ld. Secy may perhaps be consulted.)

17) The second point raised by the Director is a question of interpretation of the existing rules - The law on the subject in brief is this : Under Sec 8 (2) a) of the Mysore Petroleum Regln power is reserved for Govt to make rules provding for the grantin

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of licenses . . . . . to transport petroleum within Mysore, in cases in which such licenses are by law, required Under Rule 1. Chapter II. Transport of Petroleum, in the Rules under the Mysore Petroleum Regn, transport of petroleum within the State is prohibited, except under a license granted under the rules (Form G. & H but there is a proviso in the same rule that it does not apply to the transport of petroleum which is covered by a license for its importation & is being transported in accordance with such license (ie issued by a competent authority from -outside the Mysore State) from the port or other place of import to the place of destination Obviously in such cases, we cannot insist on separate transport licenses the license issued by the authority at Bombay & Madras would be enough to cover the transport of that petroleum from that place to the place of destination in our State- But after it reaches its place of destination & the Sub Agents of the Petroleum Companies desire to transport it again to some place, I think we would be right in insisting that the transport must be covered by a separate license under the rules (in form G or H.) The Dy Mag perhaps be informed accordingly

5366

General and Revenue Secretariat | Rev File No. 135 of 1924 | [App. F. III—2

Serial No

(At present there is no separate independent firm importing petroleum from outside. The principals of the Petroleum Companies send the oil to their Sub Agents & Agents in the several stations in the State. We are issuing licenses for possn of such petroleum by these Sub Agents & Agents.)

18) Sub[o] for formal & acon

R Sec[y] MP 15/10/25

19) The long delay in the submission of this file should have been avoided.

16.10.

20) The points raised by the Director have to be answered & obtaining the L. L Secy's opinion.

21) As regards the first. The petroleum rules and rules are applicable to Mysore and in view of the question of jurisdiction it is doubtful if the Director proposal will be in order. As regards the 2nd point, rule 1 of Chapter II is applicable, and unless a license for transportation within the State, or a for importation granted under the Mysore rules is produced consignments of Sub-agents from place to place in Mysore cannot be permitted under cover of the British Indian License

1st member

4

MP 16.10.25

21) [The file was kept for personal discussion with Sir V.P. — please see previous page — & just before he handed over charge, I discussed the position with him. Refs had to be traced & the subject requires a certain amount of study.] MP 17/10

3/10/17.10

File No. 135 5886/27

Serial No

25) I am inclined to agree with the view expressed by the 'Asst Sec' in the note above

26) The 'A & L Dept' may however be consulted & a proposal to this matter being treated as urgent

L. L. Secy with compliments — 24/10 [illegible] 27.10

24/10

27) I have exhaustively dealt with the question of jurisdiction ceded to the Br Govt over the area limited by the R[y] fences in Mysore Territory in my note on the Surcharge question

25) My conclusion is that the internal rights of the Highness except making laws & administering justice (civil & criminal), are left in tact over the territory ceded to Railway Construction

Plenary or full jurisdiction as used in the Treaty include both legislation & administration of law.

26) In the present case, the Resident has framed rules which have the force of law in exercise of powers conferred by Sec 9 of the Indian Petroleum Act 1899. These have operation over the Railway land in Mysore.

This is in effect the same as Govt Govt making laws over the Railway land & is not by the ceding of jurisdiction in the Treaty.

27) Hence I am of opinion that the proposal of the Govt of India cannot be accepted on the final point.

As to the 2nd point I also agree with the view expressed by the Asst Secy.

Revised with (compliments) 29)

1st Nov

28) I have enclosed my note on the Subject of Surcharge containing the laws relating to the jurisdiction over Railway Land in Mysore which may kindly be returned after perusal by the Secy.

S P 11.11.

GEN. & RLY. SECRETARIAT (INDUSTRIES & COMM.) 12 NOV 1925

Note—Contn. sheet

S P 11/11

35 16.11

S P 11/11

16.11.25

5-366-24
127-25

General and Revenue Secretariat

[App. F. III—2

Govt File No. 135 135- of 1924

Serial No

30) Draft reply dated (Secret 29 pages)
21/11/25 B
31) Offr mtd f. action -
RSeq
23/11
32) Clean copy
23/11 24/11
clean draft (typed) dated
25/11/25 B Offr fu action -
RSeq
25/11
(1st minister)
25/11
6775/26.11
Appd
28/11 30/11
30/11
Issue
B
1.12.25

3 To

The Director of P & T.

No. P. 3757/25 1/12

With reference to recent state-
ment in respect of oil installations
erected on Railway land over which
British Govt. have full jurisdiction,
I am to say that Rules will not apply
to the companies but will be asked
to take out licences under the Rules &
Rules etc.

THE GOVERNMENT OF INDIA
1925
COMMERCE
CALCUTTA

Note—Contn. Sheet

29/4/25 43755

(1)

Tels.—"Induscom." Codes used – A. B. C, 5th Edn: Bentleys.

1002

Govt 135-24-1

Department of Industries and Commerce.

GEN. & REV. SECRETARIAT
28 APR 1925
INDUSTRIES & COMMERCE
BRANCH.

5366

Office of the Director,

Bangalore, dated the 25th April 1925

Dear Sir,

With reference to the adminstration of the Mysore Petroleum Regulation and Rules, a doubt has been raised as to the applicability of our Regulation and Rules to the oil installations erected in the premises of certain Railway Stations under the control of the Madras and Southern Maharatta Railway Co., as the installations within the premises of the Bangalore City Railway Station have been licensed by the Superintendent of Police, Civil and Military Station, Bangalore. Rules in force in the C&M.Station under Indian Petroelum Act state that they are applicable to the Railway lands in Mysore over which British Government have jurisdiction. Kindly let me know if the installations in the premises of certain Railway Stations on the lines worked by the M. & S.M. Railway Co to be licensed, under the Mysore Petroleum Regulation and Rules also. Though these installations are erected within the Railway Station premises, they are intended to supply the needs of the people inhabiting the locality around who are Mysore subjects and it seems to me desirable to require them to obtain licenses from us also.

2)With regard to the issue of transport licenses(Forms G & H), find that under the authority of a general license issued in favour

favour of the principals at Madras or Bombay the Companies concerne claim that such a license is enough to cover all consignments made on their behalf by their Sub Agents at several places such as Bangalore, Mysore, Nanjangud etc., but I think that either the sub agents should take out separate transport licenses or the princips obtain licenses for the whole State which would authorise them to issue oil. If Government agree with my interpretation of the I shall call upon the Petroleum Companies to obtain separate li for the State and inform them that we cannot accept licenses issu by the British authorities.

Yours sincerely,

DIRECTOR.

BV.

The Secretary to the Government of Mysore,
Revenue Department, Bangalore.

Gen. 135-24-2

00865

DEPARTMENT OF INDUSTRIES AND COMMERCE

D. O. No. G. 1006

GEN. & REV. SECRETARIAT D 127

1-JUL 1925

OFFICE OF THE DIRECTOR,
INDUSTRIES & COMMERCE

Bangalore, Dated the 4th July 1925

Sir,

I have to invite reference to my D. O. Letter No G. 1002/Cs. dated the 25th April 1925, regarding the applicability of the Mysore Petroleum Regulation and Rules to the Storage Installations in the premises of the Railway Stations under the control of the M & S. M. Railway, and also the validity in the State of transport licenses issued by the authorities in British India. Until the matters are definitely decided, I cannot insist on the Agents of the Oil Companies obtaining Licenses as required by our Regulation and Rules. I therefore request the favour of an early reply to facilitate my taking further action in the matter.

P 5366

Yours sincerely,

DIRECTOR.

The Secretary to the Government of Mysore,
Revenue Department, B a n g a l o r e.

DEPARTMENT OF INDUSTRIES AND COMMERCE.

GOVERNMENT OF MYSORE

(4)

D. O. No. G. 247. C1
Enc one

OFFICE OF THE DIRECTOR,

Bangalore, Dated the 2nd. Septr. *192* 5
3.

Dear Sir,

With reference to our personal conversation the other day, re: the Petroleum Rules and Regulations I herein enclose for reference copy of the Rules to regulate the ~~provision~~ possession and transport of Petroleum applicable to the C. & M. Station, Bangalore. Please have the same returned to this office when done with.

Yours Sincerely,

H.K. Ramaiyar

Superintendent, Commercial Intelligence

To

V. Vedavyasacharya Esq., B.A.,
Assistant Secretary to Government
Revenue Department
Bangalore.

The Hon'ble the Resident in Mysore.

Notification.

No. 52, dated Bangalore, the 19th July 1909.

Rules to regulate the possession and transport of petroleum.

In exercise of the powers conferred by section 9 of the Indian Petroleum Act, 1899 (VIII of 1899), as applied to the Civil and Military Station of Bangalore and to the railway lands in Mysore territory over which jurisdiction has been ceded to the British Government, the Hon'ble the Resident in Mysore, with the previous sanction of the Governor General in Council, is pleased to make the following rules to regulate the possession and transport of petroleum in the said Civil and Military Station and the railway lands.

All rules heretofore made by the Hon'ble the Resident in Mysore under the said Act for regulating the possession and transport of petroleum are hereby cancelled.

PART I.

PRELIMINARY.

1. In these rules,—

Definitions.

(*a*) "Part" means a Part of these rules;

(*b*) "petroleum in bulk" means petroleum in quantities exceeding five hundred gallons contained in any one receptacle;

(*c*) "installation" means a place specially prepared for the storage of petroleum in bulk or for bulk combined with non-bulk storage, and may be either a major or a minor installation;

(*d*) "major installation" means an installation—

(1) capable of containing an amount of oil, whether in bulk only or in combined bulk and non-bulk storage, exceeding fifty thousand gallons, or

(2) in which tin-making operations are carried on

(*e*) "minor installation" means an installation—

(1) capable of containing an amount of oil, whether in bulk only or in combined bulk and non-bulk storage, not exceeding fifty thousand gallons, and

(2) in which no tin-making operations are carried on;

(*f*) "storage shed" means a building used for the storage of petroleum otherwise than in bulk, and may or may not form part of an installation;

(*g*) "protected works" includes buildings in which persons dwell or assemble, docks, wharves, timber yards, other petroleum stores, and any other place not forming part of an installation, which the Resident in Mysore may by notification declare as such;

(*h*) "motor-vehicle" means any vehicle or vessel propelled by a motor in which petroleum is used as fuel, and

(*i*) "owner," as applied to a motor-vehicle, includes a person who hires, or is otherwise entitled for the time being to use or work a motor vehicle.

(*j*) District Magistrate includes, in cases where the Resident so directs, 'Additional District Magistrate' of the Civil and Military Station of Bangalore.

PART II.

POSSESSION AND TRANSPORT OF PETROLEUM.

CHAPTER I.—Possession of Petroleum.

Smoking prohibited.

4. No smoking shall be permitted inside any installation or storage shed.

Supervision of operations within installation or storage shed.

2. All operations within any installation or storage shed shall be conducted under the supervision of a responsible agent or supervisor.

Cleanliness of installation.

The ground in the interior of an installation shall be kept clean and free from goods of a combustible nature, vegetation and rubbish.

Supply of sand or dry earth in installation.

4. A supply of sand or dry earth shall always be kept in an installation for the purpose of extinguishing fire.

Marking of capacity of tanks.

5. The capacity in gallons of every tank in an installation shall be conspicuously marked on it, and shall be calculated at the rate of 6·25 gallons per cubic foot.

Protection from lightning.

6. Every tank or other receptacle for the storage of petroleum in bulk, except a tank or receptacle which is not of sufficient capacity to contain ten thousand gallons of petroleum and which is so situated as not to be liable to cause danger in the event of the petroleum being ignited, shall be protected by an efficient lightning-conductor.

Explanation.—A tank or receptacle shall be deemed to be so situated as not to be liable to cause danger in the event of the petroleum being ignited, if it is not in close proximity to any other tank or receptacle, or to any building not forming part of the installation, and if it is surrounded by a wall or embankment, or sunk in an excavation, the enclosure thus formed being sufficient to contain the whole contents of the tank or receptacle.

Not less than once in every year the efficiency of every lightning conductor connected with an installation shall be tested in the manner prescribed by the Chief Inspector of Explosives by an officer appointed in that behalf by the licensing authority; and any such officer shall be permitted to enter the installation for the purposes of such test at any time after sunrise and before sunset. A certificate showing the date of the last test shall be posted in a conspicuous place within the installation.

8. The fee payable for tests carried out under Rule 7 shall be twenty rupees a year for each conductor tested, subject to a limit of two hundred rupees for any number of conductors in one installation: Provided that in addition to such fees the licensee shall be liable to pay a fee of fifteen rupees for each unsuccessful test of a conductor, subject to a limit of twenty rupees for any number of unsuccessful tests made on one day on a single conductor.

Time for work in installations or storage sheds.

No installation or storage shed shall be open, and no work in any installation or storage shed shall be permitted, between sunset and sunrise: provided that in cases where electric lighting is exclusively used, night working may be permitted by the Resident in Mysore on the recommendation of the Chief Inspector of Explosives.

Closure of pipes and openings.

10. Where there are any pipes or openings for draining out water in any enclosure wall, arrangements shall be made whereby they can be closed, and they shall only be kept open when actually necessary for drainage purposes. The nature of such arrangements shall be shown in the specifications which are required under rule 10 of Chapter IV of this Part, to be submitted with the application for a license.

Material for storage sheds.

11. All storage sheds in an installation shall be built of uninflammable material.

Posting up of rules and conditions.

12. There shall be hung up in a conspicuous place in every installation and storage shed for which a license has been granted, copies, in English and the vernacular, of the rules contained in this Chapter, and of the conditions endorsed on the license.

CHAPTER II.—Transport of Petroleum.

Petroleum may be transported into and within the Civil and Military Station of Bangalore and the railway lands in Mysore territory over which jurisdiction has been ceded to the British Government under cover of a license granted by the prescribed authority in any province in British India or in any area outside British India to which the Indian Petroleum Act, 1899, may be applied, provided that the conditions of such license are observed throughout the period during which the petroleum is in transit.

CHAPTER III.—General Provisions relating to Licenses.

Applications for licenses.

1. All applications for licenses for the possession or transport of petroleum shall be made to the District Magistrate.

Licensing authority.

2. Licenses—

(a) for the possession of non-dangerous petroleum, not being petroleum in bulk.

(b) for the possession of non-dangerous petroleum in a minor installation,

(c) for the possession or transport of dangerous petroleum in quantities not exceeding forty gallons, and

(d) for the transport of petroleum, not being dangerous petroleum, otherwise than by a pipe line.

may be granted by the District Magistrate or by such other authority as the Resident in My from time to time by order in writing appoint in this behalf. Licenses for the possession and transport of dangerous petroleum in quantities exceeding 40 gallons may be granted by the Resident in Mysore or an officer appointed by the Resident in this behalf. In all other cases the licensing authority shall be the Resident in Mysore:

Provided that in the case of renewals of existing licenses, the Resident in Mysore may delegate his powers under this rule to the District Magistrate or to such other authority as the Resident in Mysore may from time to time by an order in writing appoint in this behalf.

Refusal of license.

3. The licensing authority may, for reasons to be communicated to the applicant, refuse a license in any case

Provided that the licensing authority shall not refuse a license for the possession of petroleum in a minor installation, unless such authority has first made a reference to the Chief Inspector of Explosives and obtained his concurrence.

Forfeiture of license.

4. Every license granted under these rules shall be liable to be forfeited for any contravention of the Act, or of any rule thereunder, or of any condition contained in such license, or for any other reason deemed by the licensing authority to be good and sufficient, and recorded by him in writing.

Particulars of license.

5. Every license and pass granted under these rules shall be held subject to the conditions endorsed on it, and shall contain all the particulars which are contained in the form prescribed for it by these rules.

Provided that in the case of installations and storage sheds in existence before these rules were made, the license may contain in lieu of the particulars contained in the form prescribed for it by these rules, either such particulars as may have been entered in the license granted for such installation or storage shed under the rules heretofore in force, or such particulars as may in each case be approved by the Chief Inspector of Explosives.

Provided also that, in the case of installations or storage sheds intended for the storage of petroleum which has a flashing point above 150° F, the license may contain, in lieu of the conditions endorsed on the form prescribed for it by these rules, such conditions as may in each case be approved by the licensing authority on the recommendation of the Chief Inspector of Explosives."

Renewal of licenses.

(1) Every application for the renewal of a license shall be made in the same manner as an application for an original license.

(2) Every such application shall be made at a date not less than thirty days before the date on which the original license expires, and, if the application is so made, the premises shall be held to be duly licensed until such date as the licensing authority issues the renewed license or until an intimation that the renewal of the license is refused has been communicated to the applicant.

(3) The same fee shall be charged for the renewal of a license as for a new license.

Supply of rules to licensee.

7. When any license is granted for the possession of petroleum, a copy of the rules contained in Chapter I of this Part, printed in English and the vernacular shall be given, together with the license to the licensee.

Procedure on death or disability of licensee.

8. Where a licensee dies or becomes insolvent or becomes mentally incapable or otherwise disabled, the person carrying on the business of such licensee shall not be liable to any penalty or forfeiture under the Act or these rules for acting under the license during such time as may reasonably be necessary to allow him to make an application for a new license in his own name for the unexpired portion of the original license.

Loss of license.

Where a license granted under these rules is lost or accidentally destroyed, a duplicate may be granted.

CHAPTER IV.—Licenses for the Possession of Petroleum.

Continuance of license.

Every license for the possession of petroleum shall remain in force until the 31st of December next following the date of issue of the license.

Petroleum not in bulk, other than dangerous petroleum.

2. Licenses for the possession of petroleum, not being dangerous petroleum, otherwise than in bulk, may be granted in Form A.

Dangerous petroleum not in bulk.

3. Licenses for the possession of dangerous petroleum not in bulk, in quantity exceeding forty gallons may be granted in Form B.

Dangerous petroleum not exceeding forty gallons.

4. Licenses for the possession of dangerous petroleum in quantity not exceeding forty gallons may be granted in Form C

Transfer of certain licenses.

5. (1) The holder of a license in Form A, B or C, may, at any time before the expiry of the license, apply for permission to transfer his license to another person

(2) Such application shall be made to the District Magistrate, who shall, if he approves of the transfer enter upon the license, under his signature, an endorsement to the effect that the license had been transferred to the person named.

(3) A fee of Re. 1 shall be charged on each such application.

(4) The person to whom the license is so transferred shall enjoy the same powers and be subject to the same obligations under the license as the original holder.

Possession of dangerous petroleum in receptacles containing more than sixty-five gallons each.

6. Special licenses for the possession of dangerous petroleum in receptacles containing more than sixty-five gallons but not more than 2,000 gallons each, may be granted on such terms as the Resident in Mysore may prescribe on the recommendation of the Chief Inspector of Explosives.

Storage in major installations.

Licenses for the possession of any stated quantity of petroleum, not being dangerous petroleum in major installations, in accordance with such specifications and plans as the Resident in Mysore, on the recommendation of the Chief Inspector of Explosives, may from time to time, by general or special order approve, may be granted in Form D.

Storage in minor installations.

8. Licenses for the possession of any stated quantity of petroleum, not being dangerous petroleum, in minor installations, in accordance with such specifications and plans as the Chief Inspector of Explosives may from time to time, by general or special order, approve, may be granted in Form E.

Dangerous petroleum for use on motor-vehicles.

(1) Licenses in Form F may be granted free of charge for the possession of dangerous petroleum for use on motor-vehicles and for its transport thereon, for the purpose of use therein.

(2) The provisions of the ordinary rules relating to the possession of dangerous petroleum shall regulate the possession of dangerous petroleum for use on motor-vehicles, save in so far as these provisions are varied by the conditions of the license.

Particulars to be given in applications for licenses for the possession of petroleum other than licenses under rules 4 and 9.

10. Every application for a license for the possession of petroleum other than licenses under rules 4 and 9 of this Chapter shall specify :—

(*a*) the description and quantity of petroleum which the applicant desires to keep,

(*b*) the name and position of the premises intended to be used for the storage of such petroleum, and whether the said premises fulfil the conditions prescribed by Form A, Form B, Form D, or Form E, as the case may be,

(*c*) the amount of petroleum, if any, already licensed to be kept on the same premises.

If the application be made for the first time in respect of any major or minor installation or if the quantity of petroleum to be stored in such an installation is to be increased, the application shall be accompanied by specifications and plans drawn to scale,

Certificate of safety to be furnished.

11. Before petroleum is stored in any major or minor installation for which a license has been granted for the first time, a certificate shall be furnished to the licensing authority to the effect that all enclosure walls and embankments required to be constructed under the conditions of the license are sufficient to ensure

safety. The certificate shall be signed by an engineer accepted as qualified for the purpose by the licensing authority. When the license is not granted for the first time but is granted for an increased quantity of petroleum, a certificate shall similarly be furnished to the licensing authority before any quantity of petroleum exceeding the amount which was admissible under the former license is stored in the installation.

Particulars to be given in applications for licenses under rules 4 and 9.

12. Every application for a license under rules 4 and 9 of this Chapter shall specify :—

(a) whether the applicant is the owner of a motor-vehicle,

(b) the amount of dangerous petroleum the applicant desires to store,

(c) the exact position and nature of the premises intended to be used for the storage of such dangerous petroleum and whether the said premises fulfil the conditions prescribed by Form C or Form F, as the case may be.

CHAPTER V.—Licenses for the Transport of Petroleum.

eral licenses for the transport of angerous petroleum.

1. General licenses for the transport of petroleum other than dangerous petroleum may be granted for a period of twelve months in Form G.

[Note.—Petroleum may be transported into and within the Civil and Military Station of Bangalore and the railway lands in Mysore territory over which jurisdiction has been ceded to the British Government under cover of a license granted by the prescribed authority in any province in British India or in any area outside British India to which the Indian Petroleum Act, 1899, may be applied, provided that the conditions of such license are observed throughout the period during which the petroleum is in transit.]

General licenses for the transport of dangerous petroleum.

2. General licenses for the transport of dangerous petroleum may be granted for a period of twelve months in Form H.

Effect the general license.

3. Licenses granted under rules 1, 2 and 9 of this Chapter may authorise the holders to transport petroleum without restriction as to destination or total quantity.

Pass for transport of petroleum.

4. The holder of a general license granted under rules 1, 2 or 9 of this Chapter shall, with each consignment of petroleum conveyed under cover of his license, issue to the person who takes charge of the petroleum for the purpose of transporting it, a numbered pass in Form I.

Issue of pass for the transport of petroleum by an authorised Agent.

4-A. (1) The holder of a general license granted under rules 1 or 2 of this Chapter, may authorise his agent in writing by a general authority to issue passes in Form I for the transport of petroleum in respect solely of consignments, or parts thereof, which have been conveyed under a pass issued under rule 4 of this Chapter. Such general authority shall be given in Form I-A., copies of which may be obtained by the licensee from the licensing authority.

(2) The holder of a general license shall, on granting such written authority to an Agent, at the same time forward a duplicate copy of the authority to the District Magistrate for information, and shall also deliver up the original to the District Magistrate when the authority is cancelled.

Special licenses for the transport of petroleum other than dangerous petroleum.

5. Special licenses may be granted for the transport of petroleum, other than dangerous petroleum in quantities exceeding five hundred gallons, in Form J.

Special licenses for the transport of dangerous petroleum.

6. Special licenses may be granted for the transport of dangerous petroleum in Form K.

Effect of special license.

7. A special license granted under rules 5 and 6 shall only cover the transport of the particular consignment entered in the license, and shall be valid for such period as may be entered in it.

Particulars to be given in applications for special licenses.

8. Applications for special licenses for the transport of petroleum by rail, or by road, or by both shall specify the description and quantity of petroleum to be transported, and the places from and to which, respectively, the petroleum is to be conveyed, and shall describe the receptacles in which it is to be contained.

Transport of dangerous petroleum by motorists otherwise than on a motor-vehicle.

9. General licenses in Form L to transport dangerous petroleum up to a maximum of sixty gallons at a time, otherwise than on a motor-vehicle, may be granted for a period of twelve months to owners of motor-vehicles holding licenses under rule 9, sub-rule (1) of Chapter IV of this Part, to possess petroleum and use or transport it on a motor-vehicle

CHAPTER VI.—FEES.

Method of levying fees.

1. (1) Where the proceeds of fees leviable for licenses under these rules have been assigned by the Resident in Mysore to any local authority, the fees shall be levied in such manner as the local authority may from time to time direct.

(2) In all other cases the fees shall be paid in cash on receipt of a notice from the licensing authority that a license will be granted.

(3) The court fee stamp of the value of eight annas representing the fee chargeable under schedule II, Article I (*b*) of the Court Fees Act on an application for a license presented to a Magistrate should be attached to application.

Fees for licenses for possession of petroleum.

2. The following fees shall be charged for licenses for the possession of petroleum, namely:—

Non-dangerous petroleum.

	Rs.	
(*a*) When the quantity to be stored exceeds five hundred but does not exceed one thousand gallons.	12	
(*b*) When the quantity to be stored exceeds one thousand but does not exceed five thousand gallons.	12	for the first one thousand gallons *plus* Rs. 2 for every additional one thousand gallons or part thereof.
(*c*) When the quantity to be stored exceeds five thousand gallons, but does not exceed fifty thousand gallons.	20	for the first five thousand gallons *plus* Rs. 4 for every additional one thousand gallons or part thereof.
(*d*) When the quantity to be stored exceeds fifty thousand gallons.	250	

Dangerous petroleum.

	Rs.	
(*e*) When the quantity to be stored does not exceed forty gallons.	3	
(*f*) When the quantity to be stored exceeds forty gallons, but does not exceed five hundred gallons.	8	
(*g*) When the quantity to be stored exceeds five hundred gallons.		the same fees as those laid down for non-dangerous petroleum.

Fees for licenses for transport of petroleum.

3. The following fees shall be charged for licenses for the transport of petroleum.

Non-dangerous petroleum.

Special license—

	Rs.
(*a*) When the quantity to be transported exceeds five hundred, but does not exceed five thousand gallons.	1
(*b*) For every additional five thousand gallons or part of five thousand gallons.	1
General license for the transport of non-dangerous petroleum by rail or by road, for 12 months.	100

Dangerous petroleum.

Special license—

	Rs.	
(*i*) When the quantity to be transported does not exceed forty gallons.	2	
(*ii*) When the quantity to be transported exceeds forty gallons, but does not exceed four hundred and eighty gallons.	2	for the first 40 gallons *plus* 8 annas for every additional forty gallons or part thereof.
(*iii*) When the quantity to be transported exceeds four hundred and eighty gallons.	8	for the first four hundred and eighty gallons *plus* Rs. 2 for every additional four hundred and eighty gallons or part thereof.
General license for the transport of dangerous petroleum by the owner of a motor-vehicle by road or rail up to a maximum of sixty gallons at a time.	5	
General license for the transport of dangerous petroleum by dealers by rail or road.	50	

Fee for license granted for unexpired portion of an original license.

4. A fee of one rupee shall be charged for a new license for the unexpired portion of an original license granted to any person applying for the same in accordance with the provisions of rule 8 of Chapter III of this Part.

Fee for duplicate licenses.

5. A fee of eight annas shall be charged for a duplicate of a license granted in accordance with the provisions of rule 9 of Chapter III of this Part.

FORM A.

(Rule 2 of Chapter IV of Part II.)

License to possess petroleum (other than dangerous petroleum), otherwise than in bulk.

No. Fee, Rs.

License is hereby granted to for the storage in the storage shed described below of gallons of petroleum subject to the rules for the storage of petroleum published in Notification No. , dated , and to the further conditions on the back of this license.

District Magistrate or authority appointed under rule 2 of Chapter III of Part II.

The *192*

(Description of the storage shed above referred to.)

Endorsement on Form A.

CONDITIONS OF THE LICENSE.

If the licensing officer calls on the holder of a license, by a notice in writing, to execute any repairs of the storage shed, which may, in the opinion of such officer, be necessary for the safety of the shed, the holder of the license shall execute the repairs within such period, not being less than one month from the date of receipt of the notice, as may be fixed by the notice.

2. The storage shed shall be constructed of masonry or other uninflammable material with terraced, tiled or iron roofs and with tiled or paved or earthen floors, but the beams, rafters, columns, windows and doors may be of wood.

3. Either the doorways and other openings of the storage shed shall be built up to a height of two feet above the level of the road or street, or the floor sunk to a depth of two feet below the level of the road or street, so that the petroleum cannot flow out from the building in case of its escape from the receptacle in which it is contained, or the building itself shall be surrounded with a masonry wall or embankment or both, not less than two feet high. When the quantity of petroleum stored exceeds 16,000 gallons, the height or depth shall be three feet.

A combination of these methods is permissible.

4. The following distances round the building *shall be kept clear of protected works:—

Distances to be kept clear round buildings or enclosure walls.	Number of gallons to be stored.
None	5,000 and under.
20 feet	over 5,000 and up to 50,000
30 ,, ...	Unlimited.

5. No light, except a light of such strength, position and character as is not liable to ignite any inflammable vapour, nor fire of any description, shall be permitted within the storage shed.

FORM B.

(Rule 3 of Chapter IV of Part II.)

License to possess dangerous petroleum, otherwise than in bulk, in quantity exceeding forty gallons.

Fee, Rs.

License is hereby granted to for the storage, in the storage shed described below, of gallons of dangerous petroleum subject to the rules for the storage of petroleum published in Notification No. , dated , and the further conditions on the back of this license.

First Assistant Resident or an Officer appointed by the Resident in this behalf.

The *192* .

*Amended by Notification No. 65, dated the 11th September 1912.

(Description of the storage shed above referred to.)

Endorsement on Form B.

CONDITIONS OF LICENSE.

1. If the licensing officer call upon the holder of a license, by notice in writing, to execute any repairs of the storage shed, which may, in the opinion of such officer, be necessary for the safety of the shed, the holder of the license shall execute the repairs within such period, not being less than one month from the date of receipt of the notice, as may be fixed by the notice.

2. The license-holder is prohibited from delivering any quantity of dangerous petroleum exceeding three gallons to any one who has not a license under section 5 or section 6 of the Act or any less quantity of such petroleum, except in accordance with the conditions of the proviso to section 6 of the Act as to the vessels in which the petroleum must be contained.

3. The petroleum shall be stored in gas-tight tinned or galvanized sheet iron, steel or lead plate receptacles containing each not more than sixty-five gallons and fitted with well-made filling holes and well-fitting screw plugs, or fitted with screw cap or other cap with metal air-tight undercap. Such receptacles shall be packed in strong wooden cases, the thickness of the wood to be not less than three-eighths of an inch; provided that wood cases shall not be necessary when the receptacles are made of tinned or galvanized sheet iron or steel, and have the following thickness of metal:—

	Not less than,
(1) When the capacity does not exceed two gallons	27 B. W. G.
(2) When the capacity exceeds two gallons, but does not exceed four gallons	22 B. W. G.
(3) When the capacity exceeds four gallons but does not exceed eight gallons	20 B. W. G.
(4) When the capacity exceeds eight gallons, but does not exceed twenty gallons	16 B. W. G.
(5) When the capacity exceeds twenty but does not exceed thirty gallons	14 B. W. G.
(6) When the capacity exceeds thirty but does not exceed forty gallons	12 B. W. G.
(7) When the capacity exceeds forty but does not exceed sixty-five gallons.	10 B. W. G.

An air-space of at least one-tenth of its capacity shall be left in each receptacle at the time of filling.

5. The receptacles shall be so substantially constructed and secured as not to be liable, except under circumstances of grave negligence or extraordinary accident, to be broken or become defective, leaky or insecure.

6. The receptacles shall be labelled in accordance with the provisions of section 7 of the Act.

7. Any receptacle, before being repaired, shall be cleared of all dangerous petroleum and of all dangerous vapours arising from the same.

8. The storage shed shall be constructed of masonry or other uninflammable material with terraced, tiled or iron roofs and with tiled or paved or earthen floors.

9. Either the doorways and other openings of the storage shed shall be built up to a height of two feet above the level of the road or street, or the floor sunk to a depth of two feet below the level of the road or street, so that the petroleum cannot flow out from the building in case of its escape from the receptacle in which it is contained, or the building itself shall be surrounded with a masonry wall or embankment or both, not less than two feet high. When the quantity of petroleum stored exceeds 16,000 gallons, the height or depth shall be three feet.

A combination of these methods is permissible.

10. All ventilating openings in the storage shed shall be protected by strong wire gauze.

11. No light, except a light of such strength, position and character as is not liable to ignite any inflammable vapour, nor fire of any description, shall be permitted at any time within the storage shed.

12. All due precautions shall be taken for the prevention of unauthorised persons having access to any dangerous petroleum kept, and to the vessels containing or having actually contained the same.

13. Every person managing or employed on or in connection with the storage shed shall abstain from any act whatever which tends to cause fire or explosion and which is not reasonably necessary, and shall prevent any other person from doing such act.

14. The drum or other receptacle containing dangerous petroleum shall only be opened on the licensed premises at or immediately adjoining the storage shed and for the time necessary for drawing off the petroleum and during such drawing off every reasonable precaution shall be adopted for preventing the escape of dangerous petroleum or the vapour therefrom.

15. The following distances shall be kept clear from protected works round the storage shed:—

Quantity to be stored.	Distances to be kept clear.
Not exceeding 500 gallons	20 feet.
From 500 to 1,000 „	25 „
„ 1,000 to 5,000 „	30 „
„ 5,000 to 15,000 „	40 „
„ 15,000 to 25,000 „	50 „
„ 25,000 to 35,000 „	60 „
„ 35,000 to 50,000 „	70 „
„ 50,000 and over „	100 „

Provided that these distances may be reduced by the licensing authority on the recommendation of the Chief Inspector of Explosives in cases where screen walls are provided, or other special precautions taken, or where there are special circumstances that in the opinion of the Chief Inspector of Explosives warrant the reduction.

16. Provided that when the quantity to be possessed does not exceed 60 gallons, the provisions of conditions 8, 9 and 15 shall not apply, but the licensee shall observe the following conditions:

(i) The storage shed in which the dangerous petroleum is stored shall be well ventilated and constructed of uninflammable material provided, however, that the doors and windows may be of wood.

(ii) Where a storage shed forms part of or is attached to another building and when the intervening floor or partition is of an unsubstantial or inflammable character or has openings therein, the whole of such building shall be deemed to be the storage shed and no portion of such storage shed shall be used as a dwelling house or as a place where persons assemble. The storage shed shall have a separate entrance from the open air, distinct from any building or dwelling in which persons assemble.

17. The storage shed shall be liable to inspection by an officer not being of lower rank than an Inspector of Police authorised by the Resident in Mysore in this behalf.

FORM C.

(Rule 4 of Chapter IV of Part II.)

License to possess dangerous petroleum in quantity not exceeding forty gallons.

No. Fee, Rs. 3.

License is hereby granted to for the storage, in the storage shed described below, of gallons of dangerous petroleum, subject to the rules for the storage of petroleum published in Notification No. , dated , and to the further conditions on the back of this license.

District Magistrate or authority appointed under rule 2 of Chapter III of Part II.

The 192

(Description of the storage shed above referred to.)

Endorsement on Form C.

CONDITIONS OF LICENSE.

1 If the licensing officer calls upon the holder of a license, by notice in writing to execute any repairs of the storage shed which may, in the opinion of such officer, be necessary for the safety of the shed, the holder of the license shall execute the repairs within such period, not being less than one month from the date of receipt of the notice, as may be fixed by the notice.

2 The license-holder is prohibited from delivering any quantity of dangerous petroleum exceeding three gallons to any one who has not a license under section 5 or section 6 of the Act, or any less quantity of such petroleum, except in accordance with the conditions of the proviso to section 6 of the Act, as to the vessels in which the petroleum must be contained.

3. The petroleum shall be stored in gas-tight tinned or galvanized sheet iron, steel or lead plate receptacles containing each not more than ten gallons and fitted with well-made filling holes and well-fitting screw plugs, or fitted with screw cap or other cap with metal air-tight undercap. Such receptacles shall be packed in strong wooden cases, the thickness of the wood to be not less than three-eighths of an inch; provided that wood cases shall not be necessary when the receptacles are made of tinned or galvanized sheet iron or steel, and have the following thickness of metal:—

	Not less than.
(1) When the capacity does not exceed two gallons	27 B. W. G.
(2) When the capacity exceeds two gallons but does not exceed four gallons	22 B. W. G.
(3) When the capacity exceeds four gallons but does not exceed eight gallons	20 B. W. G.
(4) When the capacity exceeds eight gallons	16 B. W. G.

4. An air-space of at least one-tenth of its capacity shall be left in each receptacle at the time of filling.

5. Receptacles shall be so substantially constructed and secured as not be liable, except under circumstances of grave negligence or extraordinary accident to be broken or become defective leaky or insecure.

6. The receptacles shall be labelled in accordance with the provisions of section 7 of the Act.

7. Any receptacle, before being repaired, shall be cleared of all dangerous petroleum and of all dangerous vapours arising from the same.

8. The storage shed in which the dangerous petroleum is stored shall be well ventilated and constructed of uninflammable material; provided, however, that the doors and windows may be of wood.

9. All ventilating openings in the storage shed shall be protected by strong wire gauze.

10. No light, except a light of such strength, position and character as is not liable to ignite any inflammable vapour, nor fire of any description, shall be permitted at any time within the storage shed.

11. All due precautions shall be taken for the prevention of unauthorised persons having access to any dangerous petroleum kept, and to the vessels containing or having actually contained the same.

12. Every person managing, or employed on, or in connection with, the storage shed shall abstain from any act whatever which tends to cause fire or explosion and which is not reasonably necessary and shall prevent any other person from doing such act.

13. The drum or other receptacle containing dangerous petroleum shall only be opened on the licensed premises at or immediately adjoining the storage shed and for the time necessary for drawing off the petroleum, and during such drawing off every reasonable precaution shall be adopted for preventing the escape of dangerous petroleum or the vapour therefrom.

14. Where a storage shed forms part of, or is attached to, another building, and where the intervening floor or partition is of an unsubstantial or inflammable character or has openings therein, the whole of such building shall be deemed to be the storage shed and no portion of such storage shed shall be used as a dwelling or as a place where persons assemble. The storage shed shall have a separate entrance from the open air, distinct from any building or dwelling in which persons assemble.

15. The storage shed shall be liable to inspection by an officer not being of lower rank than an Inspector of Police, authorized by the Resident in Mysore in this behalf.

FORM D.

(Rule 7 of Chapter IV of Part II.)

License to possess petroleum not being dangerous petroleum in a major installation.

No. Fee, Rs.

License is hereby granted to for the storage in the place described below, of gallons of petroleum not being dangerous petroleum, subject to the rules for the storage of petroleum published in Notification No. dated , and to the further conditions on the back of this license.

First Assistant Resident.

The *192*

(Description of the place above referred to.)

Endorsement on Form-D.

CONDITIONS OF LICENSE.

1. Each tank shall either be separately surrounded by a wall or embankment of substantial construction, or shall be partially sunk in an excavation. The inclosure thus formed shall be of dimensions sufficient to contain 10 per cent more oil than the tank is capable of containing, and shall be so constructed as to prevent the escape therefrom of any oil in the form of liquid, whether under the auction of fire or otherwise. Settling or measuring tanks* may be situated within the wall or excavation, but otherwise the space enclosed by such wall or excavation, and not occupied by the tank, shall be kept entirely clear and unoccupied.

2. In the case of all storage sheds within the installation either the doorways and other openings of the building shall be built up to a height of three feet above the level of the ground outside it, or the floor shall be sunk to a depth of three feet below the level of the ground, or the building itself shall be surrounded with a masonry wall or embankment or both, not less than three feet high

3. The height of any storage tank not be more than three-fifths of its diameter.

4. A distance of not less than one hundred feet shall be kept clear between one storage tank and another or between a storage tank and a storage shed, the distance being measured between the nearest points of the perimeters of the storage tanks or storage sheds, as the case may be.

5. A distance of not less than one hundred and fifty feet shall be kept clear between any storage tank or shed and any protected work.

6. The distances specified in conditions 4 and 5 may be reduced by the Resident in Mysore on the recommendation of the Chief Inspector of Explosives in cases where screen walls are provided or other special precautions taken or where there are special circumstances that, in the opinion of the Chief Inspector of Explosives, warrant the reduction.

7. No fire or lights other than those necessary for soldering purposes, shall be permitted within the installation except in the office, living quarters, engine room, boiler house and smithy

FORM E.

(Rule 8 of Chapter IV of Part II.)

License to possess petroleum not being dangerous petroleum in a minor installation.

No. Fee, Rs.

License is hereby granted to for the storage, in the place described below, of gallons of petroleum, not being dangerous petroleum, subject to the rules for the storage of petroleum published in Notification No. dated and to the further conditions on the back of this license.

District Magistrate or authority appointed under rule 2 of Chapter III of Part II.

The *192*

(Description of the place referred to.)

Endorsement on Form E.

CONDITIONS OF LICENSE.

1. Every tank of which the capacity exceeds fifteen thousand gallons shall either be separately surrounded by a wall or embankment of substantial construction, or shall be sunk in an excavation. The enclosure thus formed shall be of dimensions sufficient to contain the total quantity of oil capable of being contained in the tank, and shall be so constructed as to prevent the escape therefrom of any oil in the form of liquid, whether under the action of fire or otherwise. The space enclosed by such wall or excavation and not occupied by the tanks, shall be kept entirely clear and unoccupied.

2. The distance to be kept clear between a tank and the walls or embankments which surround it shall be, measuring from the ground level—

(*a*) for horizontal tanks, not less than one-third the height of the tank ;

(*b*) for perpendicular tanks, not less than one-half the height of the tank.

3. The height of walls or embankments surrounding the installation shall be not less than two feet six inches from the ground level.

4. The following distances shall be kept clear between protected works not forming part of the installation and the enclosure walls or embankments

Where the number of gallons stored is—	Distance to be kept clear.
5,000 and under	Not less than 15 feet.
Over 5,000 and up to 20,000	Do. 20 „
Over 20,000 and up to 50,000	Do. 30 „

Provided that these distances may be reduced by the Resident in Mysore on the recommendation of the Chief Inspector of Explosives in cases where screen walls are provided or other special precautions taken, or where there are special circumstances which, in the opinion of the Chief Inspector of Explosives, warrant the reduction.

5. Soldering shall only be permitted in a separate room or building placed as far from the tanks as can be conveniently arranged, in which no storage or filling shall be permitted. No more tins shall be allowed in the soldering room at any one time than are necessary for expeditious working.

6. No fire or lights, except those necessary in the soldering room and watchman's house, shall be permitted.

7. If the installation contains tanks of which the capacity does not exceed fifteen thousand gallons, either

(a) each tank shall be separately enclosed in the manner prescribed in condition I, or

(b) the entire installation shall be surrounded by a masonry wall or embankment or a combination of these forming an enclosure of dimensions sufficient to contain, and prevent the overflow of, all the oil that may be stored at any one time within such walls or embankments.

8. In the case of all storage sheds within an installation, which is not surrounded by a masonry wall or embankment as provided in clause (*b*) of condition 7, either the doorways and other openings of the building shall be built up to a height of two feet above the level of the ground outside it or the floor sunk to a depth of two feet below the level of the ground, so that the petroleum cannot flow out from the building in case of its escape from the receptacle in which it is contained, or the building itself shall be surrounded with a masonry wall or embankment or both, not less than two feet high. When the quantity of petroleum stored exceeds 16,000 gallons, the height or depth shall be three feet.

A combination of these methods is permissible.

FORM F.

(*Rule 9 of Chapter IV of Part II.*)

Special license to possess and transport dangerous petroleum for owners of motor-vehicles.

No. Free of charge.

License is hereby granted to
owner (or hirer) of a motor-vehicle (or vehicles) for the possession of gallons of dangerous petroleum for use therein at * and for its transport on the said motor-vehicle (or vehicles) for the purpose of use therein, subject to the rules for the possession and transport of dangerous petroleum published in Notification No. , dated and to the conditions at the back of this license.

When the quantity exceeds 40 gallons — *First Assistant Resident or an Officer appointed by the Resident in this behalf.*

When the quantity does not exceed 40 gallons — *District Magistrate or authority appointed under rule 2 of Chapter III of Part II.*

The *192*

Situation and description of storage shed above referred to.

Endorsement on Form F.

CONDITIONS OF THE LICENSE.

1. † When not carried in a receptacle forming part of a motor-vehicle, the dangerous petroleum shall not be kept, used or transported except in gas-tight tinned or galvanized sheet iron, steel or lead plate drums or receptacles containing each not more than 4 gallons and fitted with well-made filling holes and well-fitting screw plugs or fitted with screw cap or other cap with metal air-tight undercap. Such drums or receptacles shall be packed in strong wooden cases, the thickness of the wood to be not less than three-eighths of an inch. Provided that wood cases shall not be necessary when the drums or receptacles are made of tinned or galvanized sheet iron or steel, and have the following thickness of metal:

	Not less than
(1) When the capacity does not exceed 2 gallons	27 B. W. G.
(2) When the capacity exceeds 2 gallons	22 B. W. G.

2. The drums or receptacles shall be so substantially constructed and secured as not to be liable, except under circumstances of gross negligence or extraordinary accident, to be broken or become defective, leaky or insecure.

3. † Every such vessel, when used for transporting or keeping dangerous petroleum, shall bear the words "Dangerous Petroleum—Highly Inflammable," legibly and indelibly stamped or marked thereon, or on a metallic or enamelled label attached thereto.

4. An air-space of at least one-tenth of its capacity shall be left in each drum or receptacle at the time of filling, to allow for expansion of the dangerous petroleum.

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† Amended by Notification No. 71, dated the 18th December 191[illegible]

5. Before repairs are done to any such vessel, that vessel shall, as far as practicable, be cleaned by the removal of all dangerous petroleum and of all dangerous vapours derived from the same.

6. The storage shed in which the dangerous petroleum is stored shall be well ventilated and constructed of uninflammable materials, provided, however, that the doors and windows may be of wood. When, however, the quantity of dangerous petroleum does not exceed 20 gallons it may be kept in a garage, stable or separate store room not directly communicating with any dwelling room, or room where persons assemble.

7. Where a storage shed forms part of, or is attached to, another building, and when the intervening floor or partition is of an unsubstantial or inflammable character, or has an opening therein, the whole of such building shall be deemed to be the storage shed, and no portion of such storage shed shall be used as a dwelling, or as a place where persons assemble. A storage shed shall have a separate entrance from the open air, distinct from that of any dwelling or building in which persons assemble.

8. The amount of dangerous petroleum to be kept in any one storage shed, whether or not upon motor-vehicles, shall not exceed sixty gallons at any one time.

9. The filling or replenishing of any vessels with dangerous petroleum shall not be carried on, nor shall the contents of any such vessel be exposed, in the presence of fire or artificial light except a light of such construction, position and character as not to be liable to ignite any inflammable vapour, and no artificial light shall be brought within dangerous proximity of the place where any vessel containing dangerous petroleum is being kept.

10. In the case of all dangerous petroleum kept or transported for the purpose of, or in connection with, any motor-vehicle, (*a*) all due precautions shall be taken for the prevention of accidents by fire or explosion and for the prevention of unauthorized, persons having access to any dangerous petroleum kept or transported and to the vessels containing, or having actually contained, the same and (*b*) every person managing, or employed on, or in connection with, any motor-vehicle shall abstain from every act whatever, which tends to cause fire or explosion and which is not reasonably necessary, and shall prevent any other person from committing such act.

11. The storage shed or other place of storage referred to in clause 6 shall be liable to inspection by an officer not being of lower rank than an Inspector of Police, authorised by the Resident in Mysore in this behalf.

FORM G.

(Rule I of Chapter V of Part II.)

General license to transport petroleum other than dangerous petroleum.

No. ce, Rs. 100.

A general license is hereby granted to

to transport petroleum, other than dangerous petroleum, subject to the rules contained in Chapter V of Part II of Resident's Notification No.

dated , and to the condition at the back of this license.

This license shall continue in force till the

District Magistrate or other authority, appointed under rule 2 of Chapter III of Part II,

The *192*

Endorsement on Form G.

CONDITION OF THE LICENSE.

The petroleum, if not in bulk, shall be packed in air-tight tins or drums of steel or iron, or other receptacles not easily broken, or in tank-carts of a pattern approved by the Resident in Mysore in this behalf, or in bottles securely stoppered and carefully packed so as to avoid risk of breakage.

FORM H

(Rule 2 of Chapter V of Part II.)

General license to transport dangerous petroleum otherwise than in bulk

No. Fee, Rs. 5(

A general license is hereby granted to

to transport dangerous petroleum, subject to the rules contained in Chapter V of Part II of Resident's Notification No. dated and to the further conditions on the back of this license.

This license shall continue in force till the

When the quantity to be transported at a time exceeds 40 gallons. — *First Assistant Resident or an officer appointed by the Resident in this behalf.*

When the quantity to be transported at a time does not exceed 40 gallons. — *District Magistrate or other authority, appointed under rule 2 of Chapter III of Part II.*

The 192

Endorsement on Form H

CONDITIONS OF THE LICENSE.

1. The petroleum if not in bulk must be contained in gas-tight tinned or galvanized sheet iron, steel, or lead plate receptacles containing each not more than sixty-five gallons and fitted with well-made filling holes and well-fitting screw plugs, or with screw cap or other cap with metal air-tight undercap. Such receptacles shall be packed in strong wooden cases the thickness of the wood to be not less than three-eighths of an inch:

Provided that wooden cases shall not be necessary where the receptacles are made of tinned or galvanized sheet iron or steel, and have the following thickness of metal.

	Not less than.
(1) When the capacity does not exceed 2 gallons	27 B. W. G.
(2) When the capacity exceeds 2, but does not exceed 4 gallons ...	22 B. W. G.
(3) When the capacity exceeds 4, but does not exceed 8 gallons ...	20 B. W. G.
(4) When the capacity exceeds 8, but does not exceed twenty gallons ..	16 B. W. G.
(5) When the capacity exceeds twenty, but does not exceed thirty gallons	14 B. W. G.
(6) When the capacity exceeds thirty, but does not exceed forty gallons	12 B. W. G.
(7) When the capacity exceeds forty, but does not exceed sixty-five gallons	10 B. W. G.

2. An air-space of at least one-tenth of its capacity must be left in each receptacle at the time of filling.

3. The receptacles must be so substantially constructed and secured as not to be liable, except under circumstances of gross negligence or extraordinary accident, to be broken or become defective, leaky or insecure in transit.

4. The nature of the contents and the words "Highly inflammable" must be distinctly marked on the receptacles.

Endorsement on Form I.

CONDITIONS OF THE PASS.

For dangerous petroleum in the case of the holder of a license in Form II.

1. The petroleum if not in bulk must be contained in gas-tight tinned or galvanized sheet iron, steel, or lead plate receptacles containing each not more than sixty-five gallons and fitted with well-made filling holes and well-fitting screw plugs, or with screw cap or other cap with metal air-tight undercap. Such receptacles shall be packed in strong wooden cases, the thickness of the wood to be not less than three-eighths of an inch:

Provided that wooden cases shall not be necessary where the receptacles are made of tinned or galvanised steel iron or steel, and have the following thickness of metal:

	Not less than.
(1) When the capacity does not exceed 2 gallons ...	27 B. W. G.
(2) When the capacity exceeds 2, but does not exceed 4 gallons ...	22 B. W. G.
(3) When the capacity exceeds 4, but does not exceed 8 gallons ...	20 B. W. G.
(4) When the capacity exceeds 8, but does not exceed twenty gallons ...	16 B. W. G.
(5) When the capacity exceeds twenty, but does not exceed thirty gallons	14 B. W. G.
(6) When the capacity exceeds thirty, but does not exceed forty gallons	12 B. W. G.
(7) When the capacity exceeds forty, but does not exceed sixty-five gallons	10 B. W. G.

2. An air-space of at least one-tenth of its capacity must be left in each receptacle at the time of filling.

3. The receptacles must be so substantially constructed and secured as not to be liable, except under circumstances of gross negligence or extraordinary accident, to be broken or become defective leaky or insecure in transit.

4. The nature of the contents and the words "Highly inflammable" must be distinctly marked on the receptacles.

II.—*For dangerous petroleum in the case of the holder of a license in Form L.*

The quantity of dangerous petroleum to be transported under this pass shall not exceed 60 gallons.

2. The petroleum must be contained in gas-tight tinned or galvanized sheet iron, steel, or lead plate receptacles containing each not more than four gallons and fitted with well-made filling hole. and well-fitting screw plugs or with screw cap or other cap with metal air-tight undercaps Such receptacles shall be packed in strong wooden cases, the thickness of the wood to be not less than three-eighths of an inch:

Provided that wooden cases shall not be necessary where the receptacles are made of tinned or galvanized sheet iron or steel, and have the following thickness of metal:

	Not less than.
(1) When the capacity does not exceed 2 gallons	27 B. W. G.
(2) When the capacity exceeds 2 gallons	22 B. W. G.

3. An air-space of at least one-tenth of its capacity must be left in each receptacle at the time of filling.

4. The receptacles must be so substantially constructed and secured as not to be liable, except under circumstances of gross negligence or extraordinary accident, to be broken or become defective, leaky or insecure in transit.

5. The nature of the contents and the words "Highly inflammable" must be distinctly marked on the receptacles.

III.—*For petroleum other than dangerous petroleum.*

The petroleum, if not in bulk, shall be packed in air-tight tins or drums of steel or iron, or other receptacles not easily broken, or in tank-carts of a pattern approved by the Resident in Mysore in this behalf, or in bottles securely stoppered and carefully packed so as to avoid risk of breakage.

FORM I-A.

(*Rule 4-A of Chapter V, Part II.*)

eneral authority to be given by the holder of a General License to his agent for the transport of petroleum.

(DUPLICATE).

I,
We

the holder (s)

of General License No. for the transport of

non-dangerous / dangerous petroleum in bulk or otherwise than in bulk hereby authorise

(name and residence of agent) to issue passes in Form 1 appended to the rules for the importation, possession and transport of petroleum, published in Notification No. 52, dated the 19th July 1909 (as subsequently amended), for the transport of petroleum in respect solely of consignments, or part thereof, which may be conveyed to him / them under a pass issued by me / us under rule 4, Chapter V, Part II, of the said rules.

Holder of General License No.

STATION

Date

Note.—This part to be retained by the licensee until this authority is cancelled, and then to be delivered up to the Magistrate of the District in which the agent resides with an indication that the authority has been cancelled.

I,
We

the holder (s)

of General License No. for the transport of

non-dangerous / dangerous petroleum in bulk or otherwise than in bulk hereby authorise

(name and residence of agent) to issue passes in Form 1 appended to the rules for the importation, possession and transport of petroleum published in Notification No. 52, dated the 19th July 1909 (as subsequently amended), for the transport of petroleum in respect solely of consignments, or part thereof, which may be conveyed to him / them under a pass issued by me / us under rule 4, Chapter V, Part II, of the said rules.

Holder of General License No.

STATION

Date

Note.—This part to be forwarded for information to the Magistrate of the District in which the agent resides.

(Rule 5 of Chapter V of Part II.)

Special license to transport petroleum other than dangerous petroleum.

No.

License is hereby granted t to transport
(cases or packages containing) † gallons of
petroleum subject to the rules contained in Chapter V of Part II
Resident's Notification No. , dated
and to the further condition on the back of this license.

To be omitted when the petroleum is transported in bulk.

The license shall continue in force till the day of

District Magistrate or authority appointed under rule 2 of Chapter III of Part II.

The petroleum, if not in bulk, shall be packed in air-tight tins or drums of steel or iron, or other receptacles not easily broken, or in tank-carts of a pattern approved by the Resident in Mysore in this behalf, or in bottles securely stoppered and carefully packed so as to avoid risk of breakage.

FORM K.

(Rule 6 of Chapter V of Part II.)

Special license to transport dangerous petroleum.

Fee, Rs.

License is hereby granted to of
to transport cases or packages containing in all)
gallons of dangerous petroleum from

subject ntained in Chapter V of Part II of
Resident's Notification No. , dated
the further conditions on the back of this license.

† The amount of petroleum in each case or package is stated below.

This license shall continue in force till the day of

When the quantity exceeds 40 gallons. *First Assistant Resident or an officer appointed by the Resident in this behalf*

When the quantity does not exceed 40 gallons. *District Magistrate or authority appointed under rule 2 of Chapter III of Part II.*

The *192*

Endorsement on Form K.

CONDITIONS OF THE LICENSE.

1. The petroleum if not in bulk must be contained in gas-tight tinned or galvanized sheet iron, steel or lead-plate receptacles containing each not more than sixty-five gallons and fitted with well-made filling holes and well fitting screw plugs, or with screw cap or other cap with metal air-tight undercap. Such receptacles shall be packed in strong wooden cases, the thickness of the wood to be not less than three-eighths of an inch.

Provided that wooden cases shall not be necessary where the receptacles are made of tinned or galvanized sheet iron or steel, and have the following thickness of metal:

	Not less than
(1) When the capacity does not exceed 2 gallons ...	27 B. W. G.
(2) When the capacity exceeds 2, but does not exceed 4 gallons	22 B. W. G.
(3) When the capacity exceeds 4, but does not exceed 8 gallons	20 B. W. G.
(4) When the capacity exceeds 8, but does not exceed twenty gallons	16 B. W. G.
(5) When the capacity exceeds twenty, but does not exceed thirty gallons	14 B. W. G.
(6) When the capacity exceeds thirty, but does not exceed forty gallons.	12 B. W. G.
(7) When the capacity exceeds forty, but does not exceed sixty-five gallons.	10 B. W. G.

FORM

(Rule 9 of Chapter V of Part II.)

General license to the owner of a motor-vehicle to transport dangerous petroleum otherwise than on a motor-vehicle.

No. Fee, Rs. 5.

A general license is hereby granted to to transport dangerous petroleum, otherwise than in bulk, up to $\frac{40}{60}$ gallons at a time subject to the rules contained in Chapter V of Part II of Resident's Notification No. , dated and to the further conditions on the back of this license.

This license shall continue in force till the day of

When the quantity exceeds 40 gallons. *First Assistant Resident or an officer appointed by the Resident in this behal*

When the quantity does not exceed 40 gallons. *District Magistrate or authority appointed under rule 2 of Chapter III of Part II.*

The *192*

Endorsement on Form L.

CONDITIONS OF THE LICENSE.

1. The petroleum must be contained in gas-tight tinned or galvanized sheet-iron, steel, or lead plate receptacles containing each not more than four gallons and fitted with well-made filling holes and well-fitting screw plugs, or with screw cap or other cap with metal air-tight undercap. Such receptacles shall be packed in strong wooden cases, the thickness of the wood to be not less than three-eighths of an inch:

Provided that wooden cases shall not be necessary where the receptacles are made of tinned or galvanized sheet iron or steel, and have the following thickness of metal:

	Not less than.
(1) When the capacity does not exceed 2 gallons	27 B. W. G.
(2) When the capacity exceeds 2 gallons	22 B. W. G.

2. An air-space of at least one-tenth of its capacity must be left in each receptacle at the time of filling.

3. The receptacles must be so substantially constructed and secured as not to be liable, except under circumstances of gross negligence or extraordinary accident, to be broken or become defective leaky or insecure in transit.

4. The nature of the contents and the words "Highly inflammable" must be distinctly marked on the receptacles.

T. COPELAND,
First Assistant Resident

N O T E.

The point for consideration that arises at this stage is whether the Mysore Government is entitled to the surcharge on goods carried from Bangalore to Bisanatham (B.G.) There seems to be some misconception regarding the nature of surcharge. From the object and from the provisions of the Freight Tax Act of 1917 (Act No.XIII of 1917) it is clear that the Government of India imposed a tax on goods carried by any railway and that this tax is credited to the account of Government of India after deducting the expenses incurred in connection with the collection of the tax by the Railway authorities.

2. This is evident from the preamble and Section 3 (2) which are as follows:-

"Whereas it is expedient to impose a tax on goods carried by railway or inland steam-vessel; It is hereby enacted as follows".

3(2) The tax imposed by Sub-Section (1) shall be collected by means of a surcharge on freight, by the administration of the railway or the owner of the inland steam-vessel by which the goods are carried, and shall be paid to the prescribed authority in the prescribed manner within the prescribed time, after making such deduction as may be prescribed to meet any expenses incurred in connection with the collection of the tax".

3. This raising of the freight from 1-4-1917 is not therefore to meet any supposed increase in the working expenses of railways as has been stated. This tax has been levied in virtue of soverign rights of the Imperial Government. The Government Examiner M & S.M. Railway in his letter No.2057 dated 23/25th October 1923 to the auditor, Mysore Railways objects to the refund on this line

on the ground that this is not included in the railway Board Secretary's letter. The letter of the Secretary to Govt. of Mysore for Railways dated 14th April 1921 refers to an understanding to the effect that the levy of this surcharge as a special measure pending a general increase in goods rate that is now under preparation by the Railways Board. This is not to be found in the preamble of Act XIII of 1917. What policy dictated the passing of an Act cannot be considered. The Act has to be construed from the express language of its provisions. It appears to me that the letter in question was addressed on the understanding that the surcharge was levied to meet the increase in the expenses of working the railways. This is not however borne out by the provisions of the Act. In this view he claims refund in respect of railways owned by the State vide paragraphs 3 and 4.

4. Now the question reduces itself to this viz., whether by virtue of the soverign rights possessed by the Mysore State over the territory assigned to the Railway Administration, the Mysore State, is not entitled to the portion of this tax collected by raising the freight on certain goods carried by the Railway running in the State. As observed above, the Imperial Government by virtue of their soverign right over the tract used by the railways have imposed this tax. On the same principle the Government of Mysore has a right for a portion of this tax levied for goods passing through over its territory thoughthe Government may not have any ownership over that railway just as the Imperial Government have no right of ownership over the Railways.

Notification dated 22nd November 1877 enumerates three conditions under which the land has been taken for opening Railways. It is clear from this that all land required for Railway line and Stations etc., have been given free of charge by he State and that the jurisdiction over this area has been ceded to the British Govt. except

the soverign rights. It appears to me that in para 3 of that notification the soverign right of our Maharaja has been recognized in that the State has a right to impose taxes upon goods breaking bulk and being conveyed to and from the railway. The Imperial Government have been benefited by imposing this tax upon goods passing through this territory. This case is not dis-similar to the soverign rights of His Highness the Maharaja to claim surplus revenue derived in the ceded tracts of the Civil and Military Station Bangalore. In this view of the case I venture to submit that I cannot share the taken by the Government Advocate and in my opinion the Mysore Government have a right to share in the tax in question.

6. In this connection, the Mysore Government's claim for the tax collected on goods carried by State owned Railways rests on the same principles which has been conceded. There will not be any valid reason to deny this right to us in respect of this Broad Gauge line. I am inclined to the view that we should not unnecessarily anticipate objections which have not been put forward by the examiner to Government M & S&M. Railways and that the fear of Government Advocate is not well founded.

7. The draft may accordingly be revised and a suitable draft may be prepared if the above view is acceptable to Government.

O P I N I O N.

In my former note I have shown that the surcharge was a tax levied on goods carried by Railways in India and was credited to the Imperial Minor Head "the freight tax" as is observed by Mr. Dove Wilson. It is, therefore, undoubted that the Government of India imposed this tax by virtue of their sovereign rights not as owners of the Railways of India. I have also shown that the Mysore Government by virtue of their sovereign rights are entitled to that portion of the tax which represents the surcharge on goods carried through Bangalore-Bisanathan line. In answer to the queries put by the First Member of Council, I beg to submit the following:-

2. The facts may be summarised as follows;-

During the Chief Commissioner's regime, some portions of the land were made over to the Madras Railway Company in 1859 and the conditions of the grant were mentioned in the resolution of the Government of India (Foreign Department) dated the 22nd November 1877 (Flag Y). The other portion was granted after rendition. The grant was subject to the condition mentioned in art. 15 of the Instrument of Transfer which corresponds to Art. 14 of the Mysore Treaty, 1913.

3. The main conditions are:-

(i) That the land required for the construction of the Railway line for stations and for bona-fide Railway purposes, shall be given up by the Mysore State free of all cost; all necessary compensation to owners of lands, houses, and gardens, etc. in the land given up shall be defrayed and borne by the Mysore State as is done by the British Government in regard to the Railway within British territories.

(ii) That full jurisdiction in such lands, short of sovereign rights, shall be ceded absolutely to the British Government.

(iii) That no transit or other duties on "through" goods shall be levied and that if any duties be levied on goods breading bulk and being conveyed to and from the Railway, such

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such duties shall be taken at the ordinary tariff in force in the Mysore State, or according to a fixed tariff, to be settled hereafter

4. Article 15 of Instrument of Transfer runs as follows:-

"If the British Government at any time desires to construct or work by itself or otherwise, a railway in the said territories, the Maharaja of Mysore shall grant free of all changes such land as may be required for that purpose, and shall transfer to the Governor General in Council plenary jurisdiction within such land; and no duty or tax whatever shall be levied on through traffic carried by such railway whihh may not break bulk in the said territories."

SOVEREIGN RIGHTS.

6. Sovereign rights are the rights of a sovereign. Sovereignty may be defined as the supreme power that governs the body politic or society that constitutes the State. (36 Cyclopedia of Law and Procedure, page 516.) Every independent political community will have such a sovereign, but the Sovereignty may be distributed among different persons. (Anson's Law and Custom of the Constitution, page 2 - 3). Sovereignty may be divided into external and internal. External sovereignty means exclusive soverignty as against all other States external to that territory (i.e.) exclusion of all such other states from any exercise by them of any right like or authority over the territory in question. Internal sovereignty on the other hand is power, jurisdiction and authority claimed and exercised within the territory in respect of the inhabitants thereof. (Salmond's Jurisprudence, Pages 489,490). In the Native States of India, Internal Sovereignty rests in the ruler of the State and the external in the British Government (Salmond 490-. About the Native States of India, Salmond makes the following pertinent remarks:-- Externally these States are included within the outer boundaries of the British Empire. They possess no international relation to other States. The Internal Government of these States however

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however is solely in the hands of their own Native Princes. Whatever authority is exercised over them by the Crown ~~is exercised by authority~~ ~~is exercised over them by the Corown~~ is exercised by way of international relationship and diplomacy only and not by way of constitutional law". P.490. Later on he observes that in them generally the Crown does not possess any foreign jurisdiction; but by agreement there can exist foreign jurisdiction even in Native States. "In such States the territory is that of the protected Government which exercised internal territorial sovereignty there and not that of the Crown which exercised merely external sovereignty and some measure of foreign jurisdiction" page 493 Our present case affords an apt illustration ~~for the same~~ as will be seen later on.

7. Austin's theory that a sovereign can have no legal right (Analysis of Austin's Jurisprudence by Campbell, Page 63)((Salmond, Pages 182 and 183). Sovereign has therefore rights, natural or legal. The most important of them are to administer justice, to wagewar, to raise money by taxation and to maintain order and peace, Salmond pages 93-99. "These powers of Government which are essential attributes of sovereignty are such as the power to create revenues for the public purposes, to provide for the common defence, to provide for safe and convenient ways for the common defence, to provide for safe and convenient ways for the public necessity and convenience and to take property for public uses. (8 Cyc. 934 Note 33.) Where external sovereign rights also will be divided. Right to declare war or peace and to represent the State in international affairs will be in the external sovereign. The right to tax, to legislate, to administer justice and to maintain internal order will be in the internal sovereign.

8. It may be remarked specially that taxation is an internal sovereign right. Tax is defined as a charge levied by the sovereign power upon the property of its subjects. (37 Cyc. 706 Note 1). i.e. it is an incidence of the internal sovereign

right. To quote again from 37 Cyc. 715, "The power of taxation.....is an essential and inherent attribute of sovereignty, belonging as a matter of right to every independent State or Government.

9. As regards Mysore, full internal sovereignty is vested in the soverign with a few slight modifications while the external soverignty rests with the British Crown. (See the Instrument of Transfer Rice's Gazetteer Mysore Vol.I, page 450, Aitchinson's Treaties 3rd Edn. Vol.8, page 481, the Mysore Treaty 1913). The first condition in the Resolution of 1877 is that the Government of Mysore should buy the lands at their own expense and hand them over to the Government of India. What is the effect of this? Most property has a dual ownership--the private individuals and the State's. The private individual's claim is called dominium and that of the State's imperium. Dominium is the absolute right of dealing with a thing as we will, provided we do not use it in any manner prohibited by law. (The French Code Art 544) Austin defines dominium as that which gives to the entitled party the powers of the subject to all purposes except such as are in inconsistent with his absolute or relative duties. (Analysis of Austin's Jurisprudence Campbell page 148, Cyc. 677). Superseding the rights of the private individual, there is the right of the State, the imperium. The possession of the imperium is the source of the right to tax and the right to expropriate for public purposes and to make laws and to administer the same (37 Cyc. 713 (f). (West Lake Internal Law Part I page 87). When the Mysore State expropriated the lands for the Railway, it came to possess both dominium and imperium, i.e., the full enjoyment of the property as a private owner in addition to the soverign rights of taxation, legislation and adjudication over the territory. When such lands were given away to the Government of India, what rights did they part with? The use of the land to the Railway Company for railway purposes and jurisdiction over such lands to the

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Government of India. All other rights are reserved to the soverign of the State. The Privy Council has specially ruled that territory taken for railway purposes does not become part of British India, but still is part of the dominions of the ruler who granted it and that jurisdiction over it is only for the purpose of administration of justice. Muhammad Yusuff-ud-din Vs The Queen Empress. (25 Cal. 20. P.C.) This case was decided with special reference to Hyderabad. The correspondence between the Mysore Durbar and the British Resident shows (Resident's letter dated 2nd November 1888) that lands were taken for the railway precisely in the same way as lands were taken in Hyderabad and Kashmir, so the Privy Council ruling has special application here. In the above case Lord Halsbury observes as follows:--

Subject to what is said hereafter Their Lordships are of opinion that the territory on which the railway is locally built has been and has continued to be part of the dominions of the Nizam.....their Lordships are of opinion that the railway territory has never become part of British India and is still part of the dominions of the Nizam." His Lordship continues "The concluding letter No.21 of the additional paper is from the Nizam's Minister "In reply to your letter dated the 6th instant, I beg to state that His Highness' Government is willing to accede to the wishes of the Government of India regarding the civil and criminal jurisdiction along the line of railway as is the case on other lines running through Independent States." If that is the only jurisdiction which is given and there is no evidence of any other jurisdiction whatsoever given by treaty or usage or otherwise, it is manifest that the jurisdiction conferred is a civil and criminal jurisdiction" "along the line of railway as is the case on other lines running through Independent States." (Page 33).

JURISDICTION.

11. The exact meaning of the term 'jurisdiction' as

used in the grants has now to be considered. It is a fundamental principle of law that the words in a grant are to be understood in their ordinary grammatical and literal sense. The word jurisdiction has two meanings, the one narrower and the other wider. In its narrower significance, it means 'authority to apply the law, not to make the law; to enquire into and try alleged offences. Adams Vs. Emperor (26 Madras 607). In its wider significance it comprehends both power of making laws and administer the same. (26 Madras 607 619) Now taking even wider significancation, the word does not include taxation. This is clear from the following sets of circumstances:--

12. (1) The sense in which the term jurisdiction is used in the Instrument ofTransfer (2) the interpretation placed on the word in other acts and notifications (3) analogous grants (4) the correspondence that led to the handing over of full jurisdiction over the State Railway to the Government of India and also the correspondence subsequent to 1877.

13. The sense in which the term 'jurisdiction' is used in the Instrument of Transfer.

Art. 15 of the Instrument grants full or plenary jurisdiction. Art. 17 "plenary criminal jurisdiction" over European British subject. The expression 'plenary criminal jurisdiction' has been judically interpreted to include the administration of justice and not legislation per Benson J in 26 Madras 607. Again this plenary ~~jurisdiction~~ jurisdiction may be contrasted with "all jurisdiction" granted to Government of India as regards the Cantonment See Art 9 of the Transfer. Even in the case of "all jurisdiction" the expression was interpreted to include taxation not because it has that meaning but because usage proved that taxation was allowed (26 Madras 607)

14. The interpretation placed on the word in other acts and notifications-

Now coming to the notification No.292 of 1893 issued

issued by the Government of India in pursuance of full jurisdiction conferred on them it makes mention only of legislation and adjudication. The notification deals with only with the law applicable to the railway lines and with the police and judicial administration thereof. This Notification is significant for its preamble which runs as follows:-

"Whereas the Governor General in Council has and exercises full jurisdiction within those portions of the land forming the Bangalore Branch of the Madras Railway ~~xxxxxxxxx~~ (including the land occupied as stations, out-building and for other purposes connected with the railway) which lie within the territories of His Highness the Maharaja of Mysore. In exercise of this jurisdiction and of the powers conferred by Sections 4 and 5 of the Act XXI of 1879 ~~of~~ (The Foreign Jurisdiction and Extradition Act, 1879) and of all other powers enabling him in this behalf, the Governor-General is pleased to issue the following Notification.

15. This preamble clearly shows that the jurisdiction over the Railway lines is in exercise of the powers conferred by the Foreign Jurisdiction Act of 1879 and by the grant made by the Mysore Durbar.

16. The Foreign Jurisdiction Act of 1879 and the later acts of the same nature were consolidated by the Foreign Jurisdiction Act of 1890. From the preamble and the contents of this Act it is clear that the "jurisdiction" means only the administration of justice and the necessary legislation for it over the British subject residing in foreign territory. In China for example the British Crown under the Foreign Jurisdiction Act exercises both legislative and judicial authority over resident British subjects See Salmond p.492. This does not depend, it is clear, upon either imperium or dominium over any territory. The object of this extra-territorial jurisdiction conferred by the Foreign Jurisdiction Act is to protect their subjects who are residing in foreign parts. This jurisdiction has no manner of connection with the possession of the territory, hence the wording of

the notification, viz., in exercise of the powers conferred by the Foreign Jurisdiction Act suggests really the idea that the full jurisdiction mentioned in their resolution of 1877 means only civil and criminal jurisdiction conferred by the Foreign Jurisdiction Act.

17. The Governor General in Council by notification dated 7th April 1886 directed that "the expression jurisdiction in section 1 of the Criminal Procedure Regulation of Mysore shall be held to mean jurisdiction to enquire into or try a charge.

18. (3) Analagous grants and precedents.

The expression 'full jurisdiction' occurs also in the draft notification handing over the jurisdiction of the Mysore State Railway to the British Government. Here the property in the lands as well as in the railway is undoubtedly vested in the State and therefore the expression cannot mean taxation for the simple fact that the property in no sense belongs to the British Government. The Government of India have ~~no~~ on one occasion recognised the soverign right of the State to have ~~xxxx~~ income from the Tracts ceded for the Railway purposes, i.e., in the affair of the sandal trees grown in the Bisanatham Bangalore line.

19. (4) Correspondence that led to the handing over of the full jurisdiction over the State Railway to the Government of India.

The history of the correspondence between the Mysore Durbar and the Government of India clearly shows that only the administration of justice that wasgranted and not taxation. The ground upon which this administration of civil and criminal justice is granted is for administrative convenience. In one of the letters from the Assistant Resident in this matter dated 2nd November 1888 the following passage occurs. "The Government of India have the fullest confidence in the ability of the Mysore Courts but for the sake of administrative convenience they desire that as in other Native States such as Hyderabad and Kashmir so in Mysore that the jurisdiction upon the lines

of Railway shall be vested with the Imperial Government."

20. So the real scope of authority of the Government of India over the lands ceded for the Railway purposes is mere jurisdiction which ordinarily means only administration of justice but may be taken in its widest sense to include power to make laws also

21. The use of the expression full jurisdiction short of soverign rights shows to my mind that one of the functions viz., jurisdiction even in its widest sense has been carved out of the bundle of functions which a soverign discharges in the internal administration of the State. The essential attributes of a soverign is jurisdiction to make laws and levy taxes for the purposes of augmenting the resources of the State. Where the British Government has in the present case neither dominium nor imperium over this territory it is difficult nay impossible to conclude that British Government can exercise any of the soverign rights.

22. When a prima facie case is made out that the internal soverignty is in the ruler of State, it is the duty of the Government of India to establish their case to the effect that full internal soverignty over the railway lines is granted to them.

23. It may also be mentioned that as laid down in a Privy Council decision that here land is given to the Government of India for one purpose, the grant carries with it only those rights which are necessary for the realization of that purpose Pestonji, Jivanji vs. Shapurjai (35 C. 478). The purpose of taking over jurisdiction i.e., administration of civil and Criminal justice over subjects working the railways or residing therein (25 C 20 P.C.) and also for administrative convenience, hence the remark of the Privy Council in 35 C. 478 have apt applidation here and the power of taxation cannot be spelt out of the expression full jurisdiction short of soverign rights.

24. Another aspect of the question may also be noted. Tax is an incidence of property and can be laid by virtue of soverign

power on a person or property in the soverign's territory. It becomes important to note that 3rd condition in the resolution of 1877 which runs as follows:--

"That no transit or other duties on through goods shall be levied and that if any duties levied on goods breaking bulk and being conveyed to and from the railway such duties shall be taken at the ordinary tariff in force in the Mysore State or according to a fixed tariff to be settled hereafter."

25. This is also more or less on the same terms as found in the instrument of Transfer and in the New Treaty. The plain meaning of this is that His Highness has no power to levy any tax upon goods carried through the State, but His Highness has power to impose a tax upon such of the goods as are unloaded in any of the station located in the territory of Mysore. This ~~kx~~ clearly establishes two propositions, viz., (i) that the territory ceded to the Railway Company is a part of the Mysore territory (ii) His Highness has a right to tax the good unloded and received in that territory and hence the internal soverign power of His Highness is conceded bythis condition.

26. By the first condition the use of the territory of His Highness has been granted to Railway Company for a specific purpose. By the third condition power of taxation is reserved to His Highness as shown above. Only civil and criminal jurisdiction is given to the British Government.

27. Now to sum up

(1) The rights of an internal soverign are the right to adjudicate, the right to legislate and the right to tax.

(2) The policy of the British Government in acquiring jurisdiction over lands ceded to the Railway Companies in Native States is clearly explained in the correspondence between the Durbars and the Residents. In the Privy Council case in 25 C at 32 we see the following passage extracted from the British Resident's letter to the Government of Nizam:-- The jurisdiction is not assumed by the British Government in its own right but is conceded by His Highness of His own free will for the sake of legal and administrative convenience over an area

limited by the Railway fences in which the difficulties that may occur are likely to be occasioned by Europeans." From the correspondence between the Mysore Durbar and the Resident in this respect it is clearly found that the same policy was adopted in taking over the jurisdiction here also (Vide Assistant Resident's letter dated 2nd November 1888).

(3) It has been shown that the Foreign Jurisdiction which the British Government have over the British subjects who reside in foreigb territory is one of legislation and of administration of law only.

(4) From the usuage it is clear that they did not pretend to exercise any internal rights of the soverign in such territory ~~except~~ except the administration of civil and criminal justice of the right conceded over the sandal trees grown in the Bisanatham-Bangalore line.

(5) The recognition of the right of taxation over goods breaking bulk in the Mysore Trritory.

28. These considerations lead clearly to the conclusion that the internal rights of His Highness except making laws and administering justice (civil and criminal), are left in tact over the territory and that His Highness' Government are entitled to the tax levied by the Government of India under the Freight Tax Act 1917.

(Jo B. Nagappa.)

No 9.-3757 dt/1/7/25 + cover draft-37

Ext 135-24-3

To

The Director of Industries & Commerce

in Mysore

Sir,

With reference to your D.O. No.G.1002 dated 27th April 1925, soliciting instructions in the matter of the applicability of the Mysore Petroleum Regulation and Rules to certain cases referred to therein, I am directed to state as follows :-

(1) In respect of Oil installations erected on Railway lands over which British Govt have full jurisdiction, the Mysore Rules will be advised to not apply and the Companies need not take out licenses under our Regulation and Rules.

1-12-25 Issued by the Exchange

(2) In regard to the second point raised in your letter viz., the validity of the general licenses issued by the authorities in British India to cover consignments made by the principals of the Petroleum Companies at Bombay or Madras, through their Sub Agents at several places in the State, I am to state that ~~under Rule the provision to~~ Rule 1 Chap. II of the Petrol Rules, a license from the port or other ~~granted under these rules~~ is not necessary to transport petroleum which is already covered by a license for its importation and is being transported in accordance with such license issued by a competent authority outside the State. But if after the oil reaches its place of destination in the State, the Sub Agents of the Petroleum Cos. desire to transport it again to another place, they should be required to take out separate transport licenses under the Mysore Rules.

I have etc.,

App.F.VI-G1.J

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B650

SUBJECT.....

.....

.....

Diary No. of letter replied to .....

Section

File No.

Serial No.

No.

To The Dir. of Pe.

General and Revenue Secretariat

, the 192

Sir,

With refe to your DO No 4

Date of issue.....

1002. dated 27th April 1925

soliciting guidance

~~instruction of Govt~~ in the matter of the

Signed by.....

applicability of the Mysore Petroleum

Regl & Rules to ~~oil installations~~ ~~exists~~

on Railway lands in the State over

which the British Govt have jurisdiction

certain cases

referred to

therein

and [of] the validity of the general licenses

issued by the authorities in British India

to cover consignments made by the

List of enclosures..... A

principals of the Petroleum Companies at

Bombay or Madras through their Sub Agts

Copied by .....

at several places in the State], I am

Examined by.....

directed to inform you ~~that we cannot~~

Reasons given:—

over

~~of the~~ Companies to take out license under the Regl in respect of the installations erected on railway lands over which British Govt have full jurisdiction. The Govt has only with regard to the matters mentioned in the Rule

In regard to the second point raised in your letter I am to state that under Rule 1 Chap II of the Petroleum Rules, ~~transport of petroleum within the State~~ is prohibited except under a licence granted under these rules, but there is a proviso in the same rule that it does not apply to the transport of petroleum which is covered by a licence for its importation or in course of transport in accordance with the such licence Now issued by a Competent authority in British India

As stated above

is not required to cover from the port or other place of import to the place of destination.

licence is therefore necessary in such cases, where oil is being transported from such port or place of import to the place of destination in our State. But if after the oil reaches its place of destination in Kashmir the Sub Agents of the Petroleum Companies desire to transport it again to some other place, they should be asked required to take out separate transport licences under the rules.

Yours &c

23/11/25

RS